

# Jobs & Economic Development

## Final Agenda

### Louisville Metro Council

**Meeting Date:** 03/30/2006

**Meeting Time:** 3:00 PM

**Location:** Third Floor, City Hall

**Chairs:** Hal Heiner (19)

**Members:** Leonard Watkins (1)  
David Tandy (4)  
Tom Owen (8)  
George Melton (15)  
Kelly Downard (16)  
Hal Heiner (19)  
Stuart Benson (20)

#### Special Items for Discussion:

- 1 [R-46-3-06](#) A RESOLUTION DETERMINING ONE PARCEL OF REAL PROPERTY LOCATED AT AND KNOWN AS LOT 2, 312-340 EAST MAIN STREET, LOUISVILLE, KENTUCKY, IN DOWNTOWN LOUISVILLE METRO, KENTUCKY, AND DESCRIBED IN EXHIBIT A, HERETO, OWNED BY LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT ("METRO GOVERNMENT"), SUCCESSOR TO THE CITY OF LOUISVILLE, AS SURPLUS AND NO LONGER NEEDED FOR A GOVERNMENTAL PURPOSE AND AUTHORIZING ITS SALE AND TRANSFER.

[Sponsor\(s\)](#)

[Jobs & Economic Development](#)

**RESOLUTION NO. \_\_\_\_\_, SERIES 2006**

**A RESOLUTION DETERMINING ONE PARCEL OF REAL PROPERTY LOCATED AT AND KNOWN AS LOT 2, 312-340 EAST MAIN STREET, LOUISVILLE, KENTUCKY, IN DOWNTOWN LOUISVILLE METRO, KENTUCKY, AND DESCRIBED IN EXHIBIT A, HERETO, OWNED BY LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (“METRO GOVERNMENT”), SUCCESSOR TO THE CITY OF LOUISVILLE, AS SURPLUS AND NO LONGER NEEDED FOR A GOVERNMENTAL PURPOSE AND AUTHORIZING ITS SALE AND TRANSFER.**

**SPONSORED BY: Councilman David Tandy**

**WHEREAS**, according to KRS 83.42, Metro Government, successor to the City of Louisville and County of Jefferson, Kentucky, may enact resolutions for the municipal purpose of sale or conveyance of interests in real property owned by Metro Government; and

**WHEREAS**, Section 1.C of Executive Order No. 5, Series 2003, of the Metro Mayor, provides that Metro Government may sell and convey surplus real estate upon a determination by the Legislative Council of Metro Government (the “Council”) that such property is no longer needed for the governmental purposes of Metro Government; and

**WHEREAS**, the real property which is the subject of this Resolution, a description of which is attached hereto as Exhibit “A”, has never been dedicated by virtue of use, deed, ordinance or any other manner for a public or governmental purpose; and

**WHEREAS**, the Director of Louisville Metro Government Development Authority has declared and certified to the council that the real property which is the subject of this Resolution, is surplus to the needs of Metro Government; and

**WHEREAS**, Metro Government wishes to sell the real property which is the subject of this Resolution to Fleur De Lis Development, LLC for \$662,850.00 and subject to and in

accordance with the terms and provisions of the Agreement for Purchase and Sale of Real Estate, a copy of which is attached hereto as Exhibit “B”, for development into loft condominiums and retail and office space.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL AS FOLLOWS:**

**SECTION I.** That the Council determines that the real property described in Exhibit A, attached hereto, is no longer needed to carry out the governmental functions of Metro Government.

**SECTION II.** That the Metro Mayor is hereby authorized to transfer the property named therein, in the manner provided according to Section 2 of Executive Order No. 2, Series 2003, of the Metro Mayor, to Fleur De Lis Development, LLC, a Kentucky limited liability company, for the purchase price of \$662,850.000, subject to and in accordance with the terms and provisions of the Agreement for Purchase and Sale of Real Estate, a copy of which is attached hereto as Exhibit “B”, without further action by the Council.

**SECTION III.** This Resolution shall become effective upon its passage and approval.

\_\_\_\_\_  
**Kathleen J. Herron**  
**Metro Council Clerk**

\_\_\_\_\_  
**Kevin J. Kramer**  
**President of the Council**

\_\_\_\_\_  
**Jerry E. Abramson**  
**Mayor**

**Approved:** \_\_\_\_\_  
**Date**

**APPROVED AS TO FORM AND LEGALITY:**

**Irv Maze**  
**Jefferson County Attorney**

**BY:**\_\_\_\_\_

312-340EastMainSurplusROCbknRes&Agmt.doc

3-20-06

### **CERTIFICATION OF SURPLUS PROPERTY**

The Director of Louisville Metro Development Authority has carefully reviewed the Louisville/Jefferson County Metro Government's needs for land or improvements used in the administration of Metro programs and to conduct municipal business. This office has determined that the parcel of real property identified below owned by City of Louisville/Jefferson County metro Government as the successor to the City of Louisville, and which is being scheduled for action by the Louisville Metro Council, is not needed or suitable for any specific municipal use. Further this property was originally acquired for the purpose of disposing of the property herein in a manner consistent with the Louisville/Jefferson county Metro Government's redevelopment objectives and programs.

Property described in Exhibit A, attached hereto.

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J. David Morris

Director

Louisville Metro Development Authority

# EXHIBIT "A"

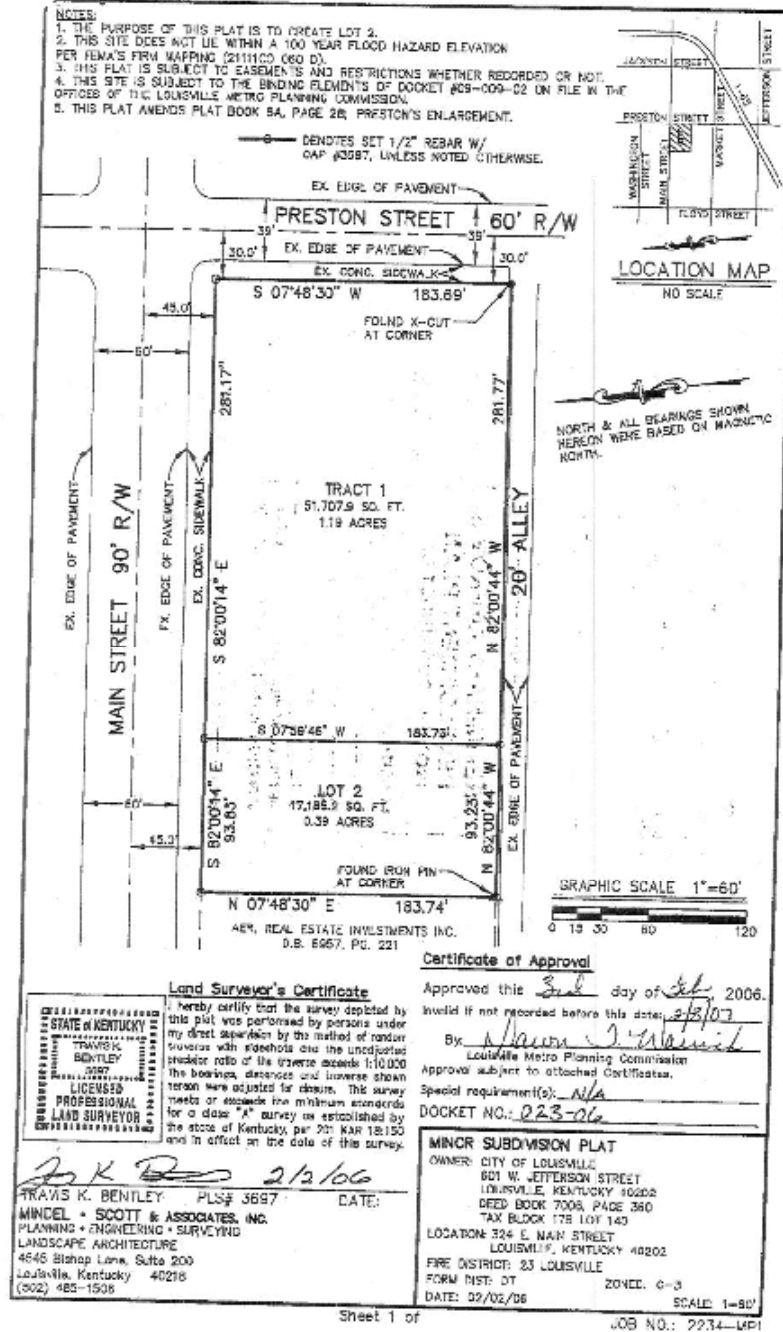
Tract 1 of the Minor Subdivision Plat dated February 3, 2006 and attached to this Exhibit "A"

03/17/2025 16:25

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POTTER & ASSOCIATES

PAGE 02



**EXHIBIT "B"**

**AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE**

**THIS AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE** (the "Agreement"), made this \_\_\_\_\_ day of March, 2006, by and between:

LOUISVILLE/JEFFERSON COUNTY ("SELLER")  
METRO GOVERNMENT  
A Kentucky local government  
and the governmental successor to the  
City of Louisville, Kentucky  
527 W. Jefferson Street  
Louisville, KY 40202

and

FLEUR DE LIS DEVELOPMENT, LLC ("BUYER")  
a Kentucky limited liability company  
333 East Main Street  
Suite 310  
Louisville, KY 40202

**RECITALS:**

A. The Seller is the owner of certain real property located at Main and Preston Streets in downtown Louisville, identified as "Tract 1" on the Minor Subdivision Plat (the "Plat") attached hereto as Exhibit A (the "Premises").

B. The Seller has determined that providing housing, retail and office space in downtown Louisville, Kentucky, provides significant economic benefits for the Seller in creating jobs, generating tax revenues, and revitalizing the downtown area.

C. In connection with the foregoing, the Seller issued a Request for Development Proposals ("RFP") to solicit proposals for the redevelopment of the Premises.

D. After analyzing the several proposals submitted in response to the RFP, the Seller selected the proposal of the Buyer as being in the best interests of the Seller.

E. The Seller has determined that the construction of a mixed use project consisting of housing, retail and office space (the "Project") in accordance with the terms of the development proposal submitted by the Buyer ("Buyer's Proposal") will further the public purposes of the Seller, promote the development of the downtown area, and further the goal of making downtown Louisville a place to live, work, play and learn.

F. The Seller is now agreeing to sell to the Buyer the Premises, and the Buyer is now agreeing to construct upon the Premises the Project, in accordance with the terms and conditions set forth in the Buyer's Proposal.

G. The Metro Council of the Seller has approved the sale of the Premises to the Buyer pursuant to this Agreement by Resolution No. \_\_\_\_\_, Series \_\_\_\_\_, adopted \_\_\_\_\_ on \_\_\_\_\_,

H. The Seller and the Buyer now desire to enter into this Agreement, in order for the Buyer to acquire the Premises and redevelop the Premises in accordance with the Buyer's Proposal.

1. DOCUMENTARY CONVENTIONS. The Documentary Conventions contained in this Section 1 ("Documentary Conventions") shall apply to this Agreement as from time to time amended, modified, replaced, restated, extended or supplemented, including by waiver or consent, and to all attachments thereto and all other documents or instruments incorporated therein. When used in this Agreement or any instrument governed by these Documentary Conventions: (i) references to a person are, unless the context otherwise requires, also to its heirs, executors, legal representatives, successors and assigns, as applicable; (ii) "hereof", "herein", "hereunder" and comparable terms refer to the entire instrument in which such terms are used and not to any particular articles, section or other subdivision thereof or attachment thereto; (iii) references to any gender include, unless the context otherwise requires, references to all genders, and references to the singular include, unless the context otherwise requires, references to the plural, and vice versa; (iv) "shall" and "will" have equal force and effect as mandatory obligations; (v) references in an instrument to "Article", "Section", "Paragraph" or another subdivision or to an attachment are, unless the context otherwise requires, to an article, section, paragraph or subdivision of or an attachment to such instrument; (vi) all accounting terms not otherwise defined therein have the meanings assigned to them in accordance with generally accepted accounting principles consistently applied; (vii) "include", "includes" and "including" shall be deemed to be followed by "without limitation", whether or not they are in fact followed by such word or words or words of like import; and (viii) the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement or any amendments or schedules hereto.

2. PROJECT SCHEDULE AND CONSTRUCTION.

2.1 Project Schedule. The Seller and the Buyer each agree to use good faith efforts to meet the milestone dates relevant to elements of the Project as set forth in the "Project Schedule" described in Exhibit B attached hereto and made a part hereof.

2.2 Construction Project.

(a) As indicated on the Project Schedule, the Buyer shall proceed with the commencement of construction of the Project (collectively, the "Project Improvements") upon the Premises, as set out in the Buyer's Proposal. After commencement of construction, the

Buyer shall use good faith efforts to diligently prosecute such construction work to completion without undue delay and in accordance with the Project Schedule, subject to delays caused by force majeure.

(b) The Buyer shall cause all work done in connection with the construction of the Project Improvements to be done in a good and workmanlike manner. All such construction shall comply with, and shall be performed in compliance with all applicable laws. The Buyer shall obtain all necessary permits and licenses required for the construction of such Project Improvements.

3. SALE AND PURCHASE OF THE PREMISES. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Seller agrees to sell the Premises and the Buyer agrees to purchase the Premises, in accordance with the terms and conditions contained in this Agreement.

4. PURCHASE PRICE. The purchase price ("Purchase Price") for the Premises shall be SIX HUNDRED SIXTY-TWO THOUSAND EIGHT HUNDRED FIFTY AND 00/100 DOLLARS (\$662,850.00) to be paid as follows:

- (a) One Hundred Fifty and 00/100 Dollars (\$150.00) shall be paid at the closing of the sale and purchase of the Premises (the "Closing");
- (b) Eight (8) equal payments of One Hundred Fifty and 00/100 Dollars (\$150.00) each shall be paid on the anniversary date of the Closing each year for eight (8) consecutive years ; and
- (c) One (1) final payment of Six Hundred Sixty-One Thousand Five Hundred and 00/100 Dollars (\$661,500.00) shall be paid on the tenth (10<sup>th</sup>) anniversary date of the Closing.

5. NOTE AND MORTGAGE. The balance of the Purchase Price unpaid at the Closing, as described in Section 4(b) and 4(c) above, shall be evidenced by a promissory note from the Buyer to the Seller ("Note") which Note shall be interest-free (i.e., the Note shall bear no interest on the unpaid balance thereof), which Note shall be secured by a mortgage from the Buyer to the Seller upon the Premises ("Mortgage"), and which Note may be prepaid by the Buyer in whole or in part at any time, without premium or penalty. The Seller hereby agrees that the Note and the Mortgage shall provide that they are expressly subject and subordinate to the construction mortgage to be obtained by the Buyer in connection with the Project, and to any mortgages entered into by purchasers of individual condominium units at the Project ("Condo Owners") for the purchase of their respective condominium units ("Condo Units"). The Buyer shall be required to fully disclose the Note and the Mortgage and the obligations thereunder to all prospective Condo Owners prior to the sale of any Condo Unit to a Condo Owner. Upon reasonable request of the Seller, the Buyer shall furnish written proof to the Seller that the disclosures required in this Section 5 have been made to the Condo Owners. Seller further agrees that the Mortgage shall provide that the Buyer has the right to dedicate the Premises as a

condominium regime, and the Seller shall execute and deliver such documents as may be reasonably requested by the Buyer and the Buyer's lender(s) and the Condo Owners and their respective lenders, in order to confirm the Seller's consent to such condominium regime. The Mortgage shall further provide for partial releases of the Mortgage as to a particular Condo Unit, in exchange for payment by the Buyer to the Seller of an amount equal to \_\_\_\_% of the net sales proceeds realized by the Buyer in connection with the sale of such Condo Unit.

6. SALES OF CONDO UNITS. Until such time as the Note is paid in full and the Mortgage is released of record, the Premises shall remain subject to the lien of the Seller pursuant to the Mortgage, and the sales of Condo Units to the Condo Owners will be subject to the obligation to pay the amount specified in the last sentence of Section 5 above.

7 CLOSING. The closing of the sale and purchase of the Premises shall occur on or before Monday, March 20, 2006, unless otherwise mutually agreed by the parties. The Closing shall be held at such place as is mutually agreed to by the Seller and the Buyer.

At the Closing the Buyer shall execute and deliver the Note and the Mortgage, and the Seller shall execute and deliver a Special Warranty Deed (the "Deed") to the Premises to the Buyer, free and clear of all liens and encumbrances except those of record which would not unreasonably interfere with the Buyer's intended use of the Premises and governmental laws and regulations (including zoning regulations) affecting the Premises and real estate taxes not yet due and payable. The original Plat shall be attached to, and recorded with, the original Deed. Seller shall also execute and deliver a standard title insurance affidavit at the Closing, and both the Seller and the Buyer shall execute and deliver a Closing Statement.

At the Closing, the Seller shall pay the transfer tax and other closing costs customarily paid by Sellers of real estate in Kentucky, and the Buyer shall pay the recording fees, title insurance premiums, and all other closing costs customarily paid by buyers of real estate in Kentucky.

8. RIGHT OF ENTRY.

9.1 Right of Entry Prior to Closing. The Buyer and its employees, agents and contractors shall have the right to enter upon the Premises prior to the Closing for the purpose of conducting surveys, tests or investigations relating to the construction of the Project (the "Investigations").

9.2 Indemnification. The Buyer shall indemnify and hold harmless the Seller from any and all liabilities, losses, costs and expenses resulting from the Buyer's Investigations, except to the extent such liabilities, losses, costs and expenses are caused by the negligent or intentional acts of the Seller, its agents or invitees. Buyer shall also indemnify and hold Seller harmless in accordance with Exhibit D attached hereto until the Note is fully paid to the Seller.

9. SELLER'S REPRESENTATIONS AND WARRANTIES. In addition to any other express agreements of the Seller contained herein, the matters set forth in this Section constitute representations and warranties by the Seller, which shall be true and correct as of the

date of this Agreement. In the event that the Seller learns, or has reason to believe, that any of the following representations and warranties may cease to be true, the Seller hereby covenants to give notice thereof to the Buyer immediately.

9.1 Authority of Seller. The Seller is a local governmental unit duly organized, validly existing, and in good standing under the laws of the Commonwealth of Kentucky and, subject to the approving resolution of the Louisville/Jefferson County Metro Council, has full power and authority to enter into and perform this Agreement. This Agreement does not conflict with any provisions of any contract, agreement or commitment to which the Seller is a party.

9.2 Binding on Seller. Subject to the approving resolution of the Louisville/Jefferson County Metro Council, this Agreement constitutes the legally valid and binding obligation of the Buyer, enforceable in accordance with its terms. Neither the entering into of this Agreement nor the consummation of the transactions contemplated hereby will constitute a violation or breach by the Buyer of any contract or other instrument to which it is a party or to which it is subject, or any judgment, order, writ, injunction or decree issued against or imposed upon it, or will result in any violation of applicable law, order, rule or regulation, of any governmental authority.

10. BUYER'S REPRESENTATIONS AND WARRANTIES. In addition to any other express agreements of the Buyer contained herein, the matters set forth in this Section constitute representations and warranties by the Buyer, which shall be true and correct as of the date of this Agreement and as of the Closing.

10.1 Authority of Buyer. The Buyer is a limited liability company duly organized, validly existing, and in good standing under the laws of the Commonwealth of Kentucky and has full power and authority to enter into and perform this Agreement. This Agreement does not conflict with any provisions of the Buyer's Articles of Organization or its Operating Agreement, or of any contract, agreement or commitment to which the Buyer is a party. As of the Closing, the execution, delivery and performance of this Agreement will have been duly authorized by all necessary action on the part of the members of the Buyer, and no further action of the members thereof shall be required to give effect to this Agreement or to permit the Buyer to carry out the transactions contemplated hereby.

10.2 Binding on the Buyer. This Agreement constitutes the legally valid and binding obligation of the Buyer, enforceable in accordance with its terms. Neither the entering into of this Agreement, nor the consummation of the transactions contemplated hereby, will constitute a violation or breach by the Buyer of any contract or other instrument to which it is a part or to which it is subject, or any judgment, order, writ, injunction or decree issued against or imposed upon it, or will result in any violation of applicable law, order or regulation of any governmental authority.

11. THE CLOSING CONTINGIENCES. The obligations of the parties to close the transactions contemplated hereby shall be subject to the following contingencies:

11.1 Contingencies to Seller's Obligation to Close. The Seller shall be under no obligation to close this transaction unless the following conditions have been satisfied or waived by the Seller, in writing, at the time of the Closing.

(a) The Buyer shall have tendered the Purchase Price;

(b) All of the Buyer's representations and warranties shall remain true and correct as of the Closing, and the Buyer shall have performed its other obligations under this Agreement;

(c) The sale of the Premises shall have been approved, if legally required, by the Louisville/Jefferson County Metro Council; and

(d) The Buyer has failed to submit to the Seller sufficient proof that the Buyer has obtained binding commitments for financing in an amount sufficient to fully complete the Project on the Premises.

11.2 Contingencies to Buyer's Obligation to Close. The Buyer shall be under no obligation to close this transaction unless the following conditions have been satisfied, or waived by the Buyer, in writing, at the time of the Closing:

(a) All of the Seller's representations and warranties shall remain true and correct as of the date of Closing, and the Seller shall have performed its obligations under this Agreement;

(b) The Buyer shall have obtained a title commitment for an owner's policy of title insurance from a title company authorized to transact business in Kentucky, and such examination and commitment shall not disclose any liens, encumbrances or adverse conditions to title which unreasonably interfere with the Buyer's intended use of the Premises, except for the permitted encumbrances described on Exhibit C hereto, or those other conditions which the Buyer is willing to accept in its reasonable discretion;

(c) The sale of the Premises shall have been approved, if legally required, by the Louisville/Jefferson County Metro Council.

11.3 Termination for Failure to Fulfill Contingencies. Upon the exercise by either the Buyer or the Seller of its option to terminate this Agreement because of the failure of the other party to fulfill the applicable contingencies referenced in Section 11.1 and 11.2 above, this Agreement shall be void, and the parties shall be relieved of any and all further obligations and duties hereunder, each unto the other.

12. INSURANCE. The Buyer and its successors and assigns shall fully comply with the insurance and other requirements set out in Exhibit D, a copy of which is attached hereto and made a part hereof.

13. NOTICES. Any notice to be given herein by any party to the others shall be given in writing by personal delivery or first class mail, at the addresses set forth on page 1 hereof, until notification of change of such address.

14. TIME OF ESSENCE. Time is of the essence to this Agreement.

15. ENTIRE AGREEMENT. This Agreement, together with any exhibits hereto, which are deemed to be incorporated by reference as if set forth at length herein, shall constitute the entire written understanding of the parties and shall supersede all oral and written understandings of the parties, all of which are deemed to be merged herein. This Agreement may not be modified or amended except in writing, signed by each of the parties hereto, their successors or assigns.

16. GOVERNING LAW. This Agreement and the obligations of the parties hereunder shall be governed in all respects by the laws of the Commonwealth of Kentucky.

17. BROKERS. The Seller and the Buyer each shall be responsible solely for paying any broker's commissions, if any, incurred by them, respectively, in connection with this Agreement.

18. SURVIVAL. All warranties, covenants and other obligations set forth herein shall survive closing of any sale and delivery of the Deed at the Closing.

19. DATE OF AGREEMENT. This Agreement shall be dated and effective as of the date first above written.

IN TESTIMONY WHEREOF, the authorized representatives of the parties have executed this Agreement on the day and year first above written.

BUYER:

FLEUR DE LIS DEVELOPMENT, LLC  
a Kentucky limited liability company

BY: \_\_\_\_\_  
Dale J. Boden, Managing Member

SELLER:

LOUISVILLE/JEFFERSON  
METRO GOVERNMENT  
a Kentucky local government

BY: \_\_\_\_\_  
JERRY E. ABRAMSON, MAYOR

THIS INSTRUMENT PREPARED BY:

\_\_\_\_\_  
JOHN A. WILMES  
Assistant Jefferson County Attorney  
444 South Fifth Street  
Fifth Floor  
Louisville, KY 40202  
(502) 57403348

**EXHIBIT A**

**(Attach copy of Minor Subdivision Plat)**

## 15

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
2000	Excavation	300	CU YD	1.15	345.00
2010	Backfill	150	CU YD	0.85	127.50
2020	Foundation	200	CU YD	0.95	190.00
2030	Concrete Work	200	CU YD	0.95	190.00
2040	Formwork	300	SQ YD	0.15	45.00
2050	Reinforcement	200	CU YD	0.15	30.00
2060	Backfill	200	CU YD	0.85	170.00
2070	Foundation	200	CU YD	0.95	190.00
2080	Concrete Work	200	CU YD	0.95	190.00
2090	Formwork	300	SQ YD	0.15	45.00
2100	Reinforcement	200	CU YD	0.15	30.00
2110	Backfill	200	CU YD	0.85	170.00
2120	Foundation	200	CU YD	0.95	190.00
2130	Concrete Work	200	CU YD	0.95	190.00
2140	Formwork	300	SQ YD	0.15	45.00
2150	Reinforcement	200	CU YD	0.15	30.00
2160	Backfill	200	CU YD	0.85	170.00
2170	Foundation	200	CU YD	0.95	190.00
2180	Concrete Work	200	CU YD	0.95	190.00
2190	Formwork	300	SQ YD	0.15	45.00
2200	Reinforcement	200	CU YD	0.15	30.00
2210	Backfill	200	CU YD	0.85	170.00
2220	Foundation	200	CU YD	0.95	190.00
2230	Concrete Work	200	CU YD	0.95	190.00
2240	Formwork	300	SQ YD	0.15	45.00
2250	Reinforcement	200	CU YD	0.15	30.00
2260	Backfill	200	CU YD	0.85	170.00
2270	Foundation	200	CU YD	0.95	190.00
2280	Concrete Work	200	CU YD	0.95	190.00
2290	Formwork	300	SQ YD	0.15	45.00
2300	Reinforcement	200	CU YD	0.15	30.00
2310	Backfill	200	CU YD	0.85	170.00
2320	Foundation	200	CU YD	0.95	190.00
2330	Concrete Work	200	CU YD	0.95	190.00
2340	Formwork	300	SQ YD	0.15	45.00
2350	Reinforcement	200	CU YD	0.15	30.00
2360	Backfill	200	CU YD	0.85	170.00
2370	Foundation	200	CU YD	0.95	190.00
2380	Concrete Work	200	CU YD	0.95	190.00
2390	Formwork	300	SQ YD	0.15	45.00
2400	Reinforcement	200	CU YD	0.15	30.00
2410	Backfill	200	CU YD	0.85	170.00
2420	Foundation	200	CU YD	0.95	190.00
2430	Concrete Work	200	CU YD	0.95	190.00
2440	Formwork	300	SQ YD	0.15	45.00
2450	Reinforcement	200	CU YD	0.15	30.00
2460	Backfill	200	CU YD	0.85	170.00
2470	Foundation	200	CU YD	0.95	190.00
2480	Concrete Work	200	CU YD	0.95	190.00
2490	Formwork	300	SQ YD	0.15	45.00
2500	Reinforcement	200	CU YD	0.15	30.00
2510	Backfill	200	CU YD	0.85	170.00
2520	Foundation	200	CU YD	0.95	190.00
2530	Concrete Work	200	CU YD	0.95	190.00
2540	Formwork	300	SQ YD	0.15	45.00
2550	Reinforcement	200	CU YD	0.15	30.00
2560	Backfill	200	CU YD	0.85	170.00
2570	Foundation	200	CU YD	0.95	190.00
2580	Concrete Work	200	CU YD	0.95	190.00
2590	Formwork	300	SQ YD	0.15	45.00
2600	Reinforcement	200	CU YD	0.15	30.00
2610	Backfill	200	CU YD	0.85	170.00
2620	Foundation	200	CU YD	0.95	190.00
2630	Concrete Work	200	CU YD	0.95	190.00
2640	Formwork	300	SQ YD	0.15	45.00
2650	Reinforcement	200	CU YD	0.15	30.00
2660	Backfill	200	CU YD	0.85	170.00
2670	Foundation	200	CU YD	0.95	190.00
2680	Concrete Work	200	CU YD	0.95	190.00
2690	Formwork	300	SQ YD	0.15	

**EXHIBIT C**

**(Attach a copy of Permitted Encumbrances)**

## **EXHIBIT D**

### **INDEMNIFICATION AND INSURANCE REQUIREMENTS FOR THE FLEUR DE LIS AGREEMENT (MAIN & PRESTON STREETS)**

#### **I. HOLD HARMLESS AND INDEMNIFICATION CLAUSE**

The Buyer shall indemnify and hold harmless Louisville/Jefferson County Metro Government, their agents and employees from and against all claims, damages, losses and expenses including attorneys' fees, arising out of or resulting from the performance of the Purchase and Sale Agreement provided that such claim, damage, loss or expense (1) is attributable to personal injury, bodily injury, sickness, disease or death, or to injury to or destruction of property, including the loss of use resulting therefrom, and/or breach of the Purchase and Sale Agreement terms and (2) is not caused by the negligent act or omission or willful misconduct of Louisville/Jefferson County Metro Government or their employees acting within the scope of their employment.

#### **II. INSURANCE**

The Buyer and all contractors and/or subcontractors shall obtain at their own cost and expense the following types of insurance through insurance companies licensed in the State of Kentucky. Insurance written by non-admitted carriers will also be considered acceptable, in accordance with Kentucky Insurance Law (KRS 304.10-040). Workers' Compensation written through qualified group self-insurance programs in accordance with Kentucky Revised Statutes (KRS 342.350) will also be acceptable. All insurance required under this Purchase and Sale Agreement evidencing Certificates of Insurance must be submitted to and approved by Louisville/Jefferson County Metro Government's Downtown Development Corporation, at the address listed at the end of this Exhibit. The Buyer shall not allow any contractor and/or subcontractor to commence work until the insurance required of such contractor or subcontractor has been obtained and proof in Buyer's possession. Without limiting Buyer's indemnification requirements, it is agreed that Buyer shall maintain in force for the entire term of this Purchase and Sale Agreement the following policy or policies of insurance covering its operations, and require all contractors and/or subcontractors to procure and maintain the described policies.

##### **A. BUYER'S REQUIREMENTS AT CLOSING OF REAL ESTATE AND PURCHASE AGREEMENT TO BE MAINTAINED UNTIL NOTE IS FULLY PAID TO SELLER:**

1. **COMMERCIAL GENERAL LIABILITY**, via the **Occurrence Form**, with a minimum of **\$1,000,000** Combined Single Limit for any one Occurrence and **\$2,000,000** aggregate for Bodily Injury, Personal Injury and Property Damage, including:
  - a. Premises - Operations Coverage
  - b. Products and Completed Operations
  - c. Contractual Liability
  - d. Independent Contractors Protective Liability
  - e. Broad Form Property Damage
  - f. Personal Injury

**NOTE:** The following clause shall be added to the Buyer's Commercial General Liability Policy:

"Louisville/Jefferson County Metro Government and its Downtown Development Corporation are added as Additional Insureds as respects operations of the Named Insured performed relative to the Main and Preston Street Development Agreement for the construction of a mixed use project consisting of housing, retail, and office space."

**B. BUYER TO REQUIRE OF GENERAL CONTRACTOR AND SUBCONTRACTORS DURING CONSTRUCTION UNTIL FINAL PHASE OF PROJECT AND ACCEPTANCE OF WORK:**

1. **COMMERCIAL GENERAL LIABILITY**, via the **Occurrence Form**, with a minimum of **\$1,000,000** Combined Single Limit for any one Occurrence and **\$2,000,000** aggregate for Bodily Injury, Personal Injury and Property Damage, including:
  - a. Premises - Operations Coverage
  - b. Products and Completed Operations
  - c. Contractual Liability
  - d. Independent Contractors Protective Liability
  - e. Broad Form Property Damage
  - f. Personal Injury.

**NOTE:** The following clause shall be added to the Buyer's and all approved contractors' and/or subcontractors' Commercial General Liability Policies:

"Louisville/Jefferson County Metro Government and its Downtown Development Corporation are added as Additional Insureds as respects operations of the Named Insured performed relative to the Main and Preston Street Development Agreement for the construction of a mixed use project consisting of housing, retail, and office space."

2. **AUTOMOBILE LIABILITY**, insuring all Owned, Non-Owned and Hired Motor Vehicles. The minimum coverage Liability Limit is **\$1,000,000** Combined Single Limit for any one accident. The Limit of Liability may be subject to increase according to any applicable State or Federal Transportation Regulations.
3. **WORKERS' COMPENSATION**, insuring the employers' obligations under Kentucky Revised Statutes Chapter 342 at Statutory Limits, and **EMPLOYERS' LIABILITY** - **\$100,000** Each Accident/ **\$500,000** Disease – Policy Limit/ **\$100,000** Disease – Each Employee.
4. **BID BOND AND PERFORMANCE BOND (INCLUDING LABOR AND MATERIALS BOND)**, The Buyer shall require the General Construction Contractor to provide one Bond equal to 100% of the expected replacement cost value of each construction improvement project as stipulated in the Purchase and Sale Agreement. This bond shall be for the benefit of the Louisville/Jefferson County Metro Government and Fleur De Lis Development LLC, as their interests may appear, covering the faithful performance of the Buyer's construction obligations in the full amount (100%) of the Construction Contract price, with such sureties as

may be agreeable to the Louisville/Jefferson County Metro Government. The Buyer shall deliver the required bonds to Downtown Development Corporation, prior to awarding construction contracts to the General Construction Contractor, or if the work is commenced prior thereto in response to the notice to proceed, the Buyer shall prior to commencement of the work, submit evidence satisfactory to the Downtown Development Corporation.

5. **BUILDERS RISK INSURANCE**, This coverage is required for all Project Building Improvements constructed. The General Contractor must provide evidence of “Builders Risk” insurance coverage prior to beginning construction in either the form of a Certificate of Insurance or an actual policy copy. Buyer shall cause General Contractor to purchase an “All Risk” (Comprehensive Form including theft of building materials, flood, earthquake, and Building Ordinance coverage including loss to the undamaged portion of the building; demolition and removal costs of undamaged parts of the structure; and any increased cost of repairs or reconstruction) Builders Risk policy with Limits of Liability equaling the full estimated replacement cost of the building being constructed plus cost of labor and materials. The policy shall list the Louisville/Jefferson County Metro Government as a Named Insured Mortgagee.
6. **PROFESSIONAL SERVICES INSURANCE REQUIREMENT**. If the Buyer subcontracts portions of the work to be performed to a contractor and/or subcontractor(s) relied upon principally because of the professional services rendered by their firm (such as, but not limited to, surveyors, civil, structural, geotechnical, or other professional engineering services), the Buyer shall also require that these contractor(s)/subcontractor(s) provide proof to the Buyer, via a Certificate of Insurance, that the Contractor(s)/subcontractor(s) has purchased **Professional Liability (Errors and Omissions)** insurance, which includes a minimum **Limit of Liability of \$1,000,000** per claim and **\$2,000,000** aggregate, in addition to the other types of insurance referenced in Section II above. The professional service contractor shall maintain such coverage for at least one year after substantial completion of the construction phase of the project. The Buyer is responsible for obtaining and maintaining copies of the Certificate of Insurance until final acceptance of work by the Louisville /Jefferson County Metro Government’s Downtown Development Corporation.

**C. BUYER SHALL PROCURE OR CAUSE TO BE PROCURED BY CONDO ASSOCIATION, THE FOLLOWING INSURANCE COVERAGES IMMEDIATELY UPON SUBSTANTIAL COMPLETION OF ANY BUILDING IMPROVEMENTS. THESE COVERAGES MUST BE MAINTAINED UNTIL THE NOTE IS FULLY PAID TO LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT:**

1. **REAL PROPERTY INSURANCE**, Upon completion of any “Building Improvements”, the Buyer shall furnish the Louisville/Jefferson County Metro Government (and continue to do so until the Note is fully paid to Louisville/Jefferson County Metro Government) a Certificate of Insurance evidencing that **Real Property Insurance** is in effect, as follows:.

- a. Real Property insurance shall be written on the I.S.O. (or equivalent) Special Property Form with the real property limit of liability equal to full Replacement Cost of the "Building" including equipment and furnishings. The policy should also include the perils of Flood and Earthquake. The policy shall be endorsed to add the Louisville/Jefferson County Metro Government as Mortgagee ATIMA with respect to all real property.
2. **COMMERCIAL GENERAL LIABILITY INSURANCE.** The Commercial General Liability insurance required of the Buyer in Insurance Requirement Section II of this Exhibit, must be purchased and in force when the Buyer enters into this Agreement. This insurance must be maintained for the duration until Louisville/Jefferson County Metro Government's Note is fully paid. The policy shall be endorsed to add Louisville/Jefferson County Metro Government as an Additional Insured as respects operations of the Named Insured.

### III. **ACCEPTABILITY OF INSURERS**

Insurance covering the Buyer, General Contractor, and all subcontractors must be placed with Insurance Companies with an A. M. Best Rating of no less than "A+ VI", unless proper financial information relating to the Company is submitted to and approved by Louisville/Jefferson County Metro Government's Downtown Development Corporation.

### IV. **MISCELLANEOUS**

- A. The Buyer shall procure and maintain insurance policies as described herein and for which the Louisville/Jefferson County Metro Government shall be furnished Certificates of Insurance at the times stated.
- B. The Certificates shall include provisions stating that the policies may not be cancelled or materially amended without Louisville/Jefferson County Metro Government's Downtown Development Corporation having been provided at least (30) thirty days written notice. The Certificates shall identify the Project to which they apply and shall include the name and address of the person executing the Certificate of Insurance as well as the person's signature. Since policies will expire before the completion of the Project, renewal Certificates of Insurance shall be furnished to the Downtown Development Corporation before the expiration date of such policies.
- C. At the time the Buyer signs the Purchase and Sale Agreement, Certificates of Insurance required of the Buyer shall be furnished to:  

Louisville/Jefferson County Metro Government  
Downtown Development Corporation  
401 West Main Street, Suite 1702  
Louisville, KY 40203
- D. Approval of the insurance by Louisville/Jefferson County Metro Government shall not in any way relieve or decrease the liability of the Buyer, any General Contractor, or Sub-contractor hereunder. It is expressly understood that Louisville/Jefferson County Metro Government does not in any way represent that the specified Limits of Liability or coverage or policy forms are sufficient or adequate to protect the interest or liabilities of the Buyer.